

AMENDED IN ASSEMBLY JUNE 1, 1999
AMENDED IN ASSEMBLY APRIL 28, 1999
AMENDED IN ASSEMBLY APRIL 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1300

**Introduced by Assembly Member Rod Pacheco
(Coauthors: Assembly Members Cunneen and Washington)**

February 26, 1999

An act to amend Sections 3000 and 3000.1 of, to add Section 11055 to, to add Article 1.5 (commencing with Section 3005) to Chapter 8 of Title 1 of Part 3 of, and to add and repeal Section 3007 of Article 1.5 (commencing with Section 3005) of Chapter 8 of Title 1 of Part 3 of, the Penal Code, relating to sex offenders, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1300, as amended, Rod Pacheco. Sex offenders: parole.

Existing law provides for the parole of sex offenders, as specified.

This bill, the "Sex Offender Containment Act," would provide that those sex offenders guilty of ~~rape or child molestation~~ *rape, sodomy, oral copulation by force, lewd acts on a child under 14 years of age, continuous sexual abuse of a child, or rape in concert, as specified*, shall be subject to a ~~minimum~~ *maximum* of 5 years of continuous parole. The bill would also (1) provide for the intensive parole supervision of

specified sex offenders by the Department of Corrections; (2) subject to legislative appropriation of necessary funds, provide for a specialized sex offender treatment pilot program for specified inmates from January 1, 2000, to January 1, 2006; (3) provide for reports from the Department of Corrections and Department of Mental Health by September 1, 2000, to the Legislature regarding sexually violent predators; and (4) appropriate \$4,500,000 to the Department of Corrections for the purpose of implementing this act during the 1999–2000 fiscal year, to be offset by the expenditure of up to ~~\$2,000,000~~ \$200,000 in reimbursements.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited
2 as the “Sex Offender Containment Act.”

3 SEC. 2. The Legislature finds and declares the
4 following:

5 (a) About half of the 7,300 adult sex offenders now
6 under state parole supervision are considered to pose a
7 high risk of committing new sex crimes and other violent
8 acts.

9 (b) Very few of these offenders have received any
10 treatment while in prison to curb their pattern of
11 criminal activities, and only a fraction receive intensive
12 supervision, treatment, and control after they are
13 released into the community.

14 (c) Two out of three fail on parole by committing new
15 crimes or parole violations.

16 (d) A program to address this public concern by
17 sending these offenders to state mental hospitals is
18 proving costly and is holding relatively few offenders.

19 (e) In light of the above concerns, the implementation
20 of a more cost-effective strategy of “containment” of
21 high-risk adult sex offenders is necessary.



(f) This containment strategy would include longer and more intensive supervision of high-risk adult sex offenders released on parole, and pre and post release treatment programs to help control the behavior of habitual sexual offenders.

(g) Containment is an approach intended to prevent a sex offender who has been released on parole from committing new crimes by placing the offender in a “triangle” of supervision surrounded by the parole agent, and a treatment provider.

(h) The containment approach emphasizes collaboration between the parole agent and treatment provider, making the safety of the community and past sex crime victims a high priority, and calls for individualized case management of sex offenders that addresses the specific supervision, treatment, and controls needed to reintegrate them safely in the community.

(i) In summary, the benefits of the containment of sex offenders would be improved public safety, including a reduction in new crimes and parole violations by sex offenders on parole; better use of state parole resources with more intense efforts for a longer period of time to supervise high-risk offenders and less focus on low-risk offenders; more and better information for parole agents to identify the sex offenders who pose the greatest risk to the public and impose appropriate conditions of parole to reduce the risk; better use of parole outpatient clinic resources with more focus on assessment and management of seriously mentally ill offenders; and significant long-term net savings to the state and local government potentially in the tens of millions of dollars annually, due primarily to lower costs for the prison and mental hospital systems, the criminal justice system, and for assistance to crime victims.

SEC. 3. Section 3000 of the Penal Code is amended to read:

3000. (a) (1) The Legislature finds and declares that the period immediately following incarceration is critical to successful reintegration of the offender into society and

1 to positive citizenship. It is in the interest of public safety
2 for the state to provide for the supervision of and
3 surveillance of parolees, including the judicious use of
4 revocation actions, and to provide educational,
5 vocational, family and personal counseling necessary to
6 assist parolees in the transition between imprisonment
7 and discharge. A sentence pursuant to Section 1168 or
8 1170 shall include a period of parole, unless waived, as
9 provided in this section.

10 (2) The Legislature finds and declares that it is not the
11 intent of this section to diminish resources allocated to the
12 Department of Corrections for parole functions for which
13 the department is responsible. It is also not the intent of
14 this section to diminish the resources allocated to the
15 Board of Prison Terms to execute its duties with respect
16 to parole functions for which the board is responsible.

17 (3) The Legislature finds and declares that diligent
18 effort must be made to ensure that parolees are held
19 accountable for their criminal behavior, including, but
20 not limited to, the satisfaction of restitution fines and
21 orders.

22 (4) Any finding made pursuant to Article 4
23 (commencing with Section 6600) of Chapter 2 of Part 2
24 of Division 6 of the Welfare and Institutions Code, that a
25 person is a sexually violent predator shall not toll,
26 discharge, or otherwise affect that person's period of
27 parole.

28 (b) Notwithstanding any provision to the contrary in
29 Article 3 (commencing with Section 3040) of this chapter,
30 the following shall apply:

31 (1) At the expiration of a term of imprisonment of one
32 year and one day, or a term of imprisonment imposed
33 pursuant to Section 1170 or at the expiration of a term
34 reduced pursuant to Section 2931, if applicable, the
35 inmate shall be released on parole for a period not
36 exceeding three years, unless the parole authority for
37 good cause waives parole and discharges the inmate from
38 custody of the department.

39 (2) In the case of any inmate sentenced under Section
40 1168 or any inmate sentenced for ~~rape or child~~

1 ~~molestation, the period of parole shall not exceed five~~
2 ~~years in the case of an inmate imprisoned for any offense,~~
3 ~~other than first or second degree murder, rape, or child~~
4 ~~molestation for which the inmate has received a life~~
5 ~~sentence, and shall not exceed three years in the case of~~
6 ~~any other inmate a violation of paragraph (3), (4), (5),~~
7 ~~(6), (16), or (19) of subdivision (c) of Section 667.5, or any~~
8 ~~inmate imprisoned for first or second degree murder for~~
9 ~~which murder the inmate received a life sentence, the~~
10 ~~period of parole shall not exceed five years, and in the case~~
11 ~~of any other inmate, the period of parole shall not exceed~~
12 ~~three years, unless in either case the parole authority for~~
13 ~~good cause waives parole and discharges the inmate from~~
14 ~~custody of the department. This subdivision shall be also~~
15 ~~applicable to inmates who committed crimes prior to July~~
16 ~~1, 1977, to the extent specified in Section 1170.2.~~

17 (3) The parole authority shall consider the request of
18 any inmate regarding the length of his or her parole and
19 the conditions thereof.

20 (4) Upon successful completion of parole, or at the end
21 of the maximum statutory period of parole specified for
22 the inmate under paragraph (1) or (2), as the case may
23 be, whichever is earlier, the inmate shall be discharged
24 from custody. The date of the maximum statutory period
25 of parole under this subdivision and paragraphs (1) and
26 (2) shall be computed from the date of initial parole and
27 shall be a period chronologically determined. Time
28 during which parole is suspended because the prisoner
29 has absconded or has been returned to custody as a parole
30 violator shall not be credited toward any period of parole
31 unless the prisoner is found not guilty of the parole
32 violation. However, in no case, except as provided in
33 Section 3064, may a prisoner subject to three years on
34 parole be retained under parole supervision or in custody
35 for a period longer than four years from the date of his or
36 her initial parole, and, except as provided in Section 3064,
37 in no case may a prisoner subject to five years on parole
38 be retained under parole supervision or in custody for a
39 period longer than seven years from the date of his or her
40 initial parole.

1 (5) The Department of Corrections shall meet with
2 each inmate at least 30 days prior to his or her good time
3 release date and shall provide, under guidelines specified
4 by the parole authority, the conditions of parole and the
5 length of parole up to the maximum period of time
6 provided by law. The inmate has the right to
7 reconsideration of the length of parole and conditions
8 thereof by the parole authority. The Department of
9 Corrections or the Board of Prison Terms may impose as
10 a condition of parole that a prisoner make payments on
11 the prisoner's outstanding restitution fines or orders
12 imposed pursuant to subdivision (a) or (c) of Section
13 13967 of the Government Code, as operative prior to
14 September 28, 1994, or subdivision (b) or (f) of Section
15 1202.4.

16 (6) For purposes of this chapter, the Board of Prison
17 Terms shall be considered the parole authority.

18 (7) The sole authority to issue warrants for the return
19 to actual custody of any state prisoner released on parole
20 rests with the Board of Prison Terms, except for any
21 escaped state prisoner or any state prisoner released prior
22 to his or her scheduled release date who should be
23 returned to custody, and Section 3060 shall apply.

24 SEC. 4. Section 3000.1 of the Penal Code is amended
25 to read:

26 3000.1. (a) In the case of any inmate sentenced
27 under Section 1168 for any offense of first or second
28 degree murder with a maximum term of life
29 imprisonment or in the case of any inmate sentenced
30 under Section 667.61, the period of parole, if parole is
31 granted, shall be the remainder of the inmate's life.

32 (b) Notwithstanding any other provision of law, when
33 any person referred to in subdivision (a) has been
34 released on parole from the state prison, and has been on
35 parole continuously for seven years in the case of any
36 person imprisoned for first degree murder, and five years
37 in the case of any person imprisoned for second degree
38 murder, rape, or child molestation, since release from
39 confinement, the board shall, within 30 days, discharge
40 such person from parole, unless the board, for good cause,

1 determines that such person will be retained on parole.
2 The board shall make a written record of its
3 determination and transmit a copy thereof to the parolee.

4 (c) In the event of a retention on parole, the parolee
5 shall be entitled to a review by the board each year
6 thereafter.

7 (d) There shall be a hearing as provided in Sections
8 3041.5 and 3041.7 within 12 months of the date of any
9 revocation of parole to consider the release of the inmate
10 on parole, and notwithstanding the provisions of
11 paragraph (2) of subdivision (b) of Section 3041.5, there
12 shall be annual parole consideration hearings thereafter,
13 unless the person is released or otherwise ineligible for
14 parole release. The panel or board shall release the person
15 within one year of the date of the revocation unless it
16 determines that the circumstances and gravity of the
17 parole violation are such that consideration of the public
18 safety requires a more lengthy period of incarceration or
19 unless there is a new prison commitment following a
20 conviction.

21 (e) The provisions of Section 3042 shall not apply to
22 any hearing held pursuant to this section.

23 SEC. 5. Article 1.5 (commencing with Section 3005)
24 is added to Chapter 8 of Title 1 of Part 3 of the Penal Code,
25 to read:

26
27 Article 1.5. Intensive Parole Supervision of Sex
28 Offenders
29

30 3005. (a) The Department of Corrections, to the
31 maximum extent practical and feasible, shall ensure, by
32 July 1, 2001, that all parolees under active supervision it
33 deems to pose a high risk to the public of committing
34 violent sex crimes shall be placed on an intensive and
35 specialized parole supervision caseload.

36 (b) Any parolee who had participated in a pilot
37 program providing sex offender treatment while the
38 parolee was an inmate in the state prison, as provided in
39 Section 3007, shall be placed on an intensive and
40 specialized parole supervision caseload.

1 (c) The department shall accomplish the
2 requirements of this section by redirecting part of the
3 staff resources now used for the supervision of those
4 parolees it classifies as posing a relatively lesser risk to
5 public safety, including, if the department determines it
6 is necessary, by putting the lower-risk parolees on a
7 banked caseload immediately upon parole or after an
8 initial period of active supervision pursuant to which the
9 parolee would no longer be under active supervision.

10 3006. (a) The Department of Corrections, subject to
11 the legislative appropriation of the necessary funds, may
12 establish and operate, after January 1, 2000, a specialized
13 sex offender treatment program for parolees the
14 department deems to pose a high risk to the public of
15 committing violent sex crimes.

16 (b) (1) The program shall be based upon the relapse
17 prevention model, targeted primarily for the same
18 offenders receiving more intensive and specialized
19 supervision under Section 3005, and shall include referral
20 to specialized services, such as substance abuse
21 treatment, for offenders needing those specialized
22 services.

23 (2) Parole agents may conduct group counseling
24 sessions as part of the program.

25 (3) The department may include other appropriate
26 offenders in the treatment program if doing so facilitates
27 the effectiveness of the treatment program.

28 (c) Except as otherwise required under Section 645,
29 the department may provide medication treatments for
30 selected offenders as determined by medical protocols
31 and only on a voluntary basis and with the offender's
32 informed consent.

33 (d) The program shall be established with the
34 assistance and supervision of the staff of the department
35 primarily by obtaining the services of specially trained sex
36 offender treatment providers.

37 (e) It is the intent of the Legislature, by the enactment
38 of this section, to provide the following:

39 (1) That sex offenders who do not have a diagnosed
40 serious mental disorder, or who do not exhibit signs of

1 serious mental illness after being released on parole, shall
2 no longer be referred to Parole Outpatient Clinics
3 (POCs) operated by the Department of Corrections.

4 (2) That the cessation of the referrals specified in
5 paragraph (1) shall result in improved and expanded
6 services for the seriously ill parolees assigned to the POCs
7 by the department.

8 (f) The department may require persons subject to
9 this section to pay some or all of the costs associated with
10 this treatment, subject to the person's ability to pay.
11 "Ability to pay" means the overall capability of the person
12 to reimburse the costs, or a portion of the costs, of
13 providing sex offender treatment, and shall include, but
14 shall not be limited to, consideration of all of the following
15 factors:

16 (1) Present financial position.

17 (2) Reasonably discernible future financial position.

18 (3) Likelihood that the person shall be able to obtain
19 employment after the date of parole.

20 (4) Any other factor or factors which may bear upon
21 the person's financial capability to reimburse the
22 department for the costs.

23 (g) For purposes of this section, a "specially trained
24 treatment provider" shall meet all of the following
25 requirements:

26 (1) He or she shall be a licensed clinical social worker
27 as defined in Article 4 (commencing with Section 4996)
28 of Chapter 14 of Division 2 of the Business and Professions
29 Code; a marriage, family, and child counselor as defined
30 in Chapter 13 (commencing with Section 4980) of
31 Division 2 of the Business and Professions Code; a clinical
32 psychologist, as defined in Section 1316.5 of the Health
33 and Safety Code; or a physician and surgeon engaged in
34 the practice of psychiatry.

35 (2) He or she shall have a minimum of 1,000 hours of
36 clinical experience in the area of assessment and
37 treatment of sex offenders and 40 hours of documented
38 continuing education hours in sex offender treatment.
39 Required training shall include training in the following:
40 personality theory and disorders; etiology of sexual

1 deviance; sexual arousal, assessment, and reconditioning;
2 social competency training, relapse prevention, and
3 cognitive restructuring therapy; culturally specific
4 treatment needs; treatment of special needs clients;
5 pharmacological therapy; victimology; state sexual abuse
6 statutes; and ethics and professional standards.
7 Coursework completed as part of graduate studies may
8 be credited towards meeting certification standards.
9 Certification as to completion of the coursework shall be
10 provided by the college or university at which the
11 coursework was undertaken.

12 (3) Two letters of reference from professionals who
13 can attest to the applicant's experience in counseling sex
14 offenders.

15 3007. (a) The Department of Corrections, subject to
16 the legislative appropriation of the necessary funds, may
17 establish and operate, after January 1, 2000, a specialized
18 sex offender treatment pilot program for inmates the
19 department deems to pose a high risk to the public of
20 committing violent sex crimes.

21 (b) (1) The program shall be based upon the relapse
22 prevention model and shall include referral to specialized
23 services, such as substance abuse treatment, for offenders
24 needing those specialized services.

25 (2) Except as otherwise required under Section 645,
26 the department may provide medication treatments for
27 selected offenders as determined by medical protocols
28 and only on a voluntary basis and with the offender's
29 informed consent.

30 (c) (1) The program shall be targeted primarily at
31 adult sex offenders who meet the following conditions:

32 (A) The offender is within two years of being released
33 on parole.

34 (B) The offender has been subject to a clinical
35 assessment.

36 (C) A review of the offender's criminal history
37 indicates that the offender poses a high risk of committing
38 new sex offenses upon his or her release on parole.

39 (D) The offender, based on his or her clinical
40 assessment, may be amenable to treatment.

(2) The department may include other appropriate offenders in the treatment program if doing so facilitates the effectiveness of the treatment program.

(d) The program under this section shall be established with the assistance and supervision of the staff of the department primarily by obtaining the services of specially trained sex offender treatment providers.

(e) (1) The program under this section, upon full implementation, shall provide for the treatment of 500 adult sex offenders at any given time.

(2) To the maximum extent that is practical and feasible, offenders participating in the pilot program shall be held in a separate portion of a prison facility segregated from any nonsex offenders held at the same prison, and treatment in the pilot program shall be provided in program space segregated to the maximum extent that is practical and feasible from program space for any nonsex offenders held at the same prison.

(f) Offenders participating in the pilot program under this section who, based upon a clinical evaluation by the department and in the judgment of the Director of Corrections, demonstrate significant progress during treatment shall not be subject to referral by the director to the Department of Mental Health for commitment pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(g) All offenders participating in the pilot program shall, upon their release on parole, be subject to intense and specialized parole supervision as provided in Section 3005, continued participation in a sex offender treatment program as provided under Section 3006.

(h) (1) The Department of Mental Health, by January 1, 2005, shall provide a report evaluating the pilot program to the fiscal and public safety policy committees of both houses of the Legislature, and to the Joint Legislative Budget Committee.

(2) The report shall initially evaluate if the program under this section is operating effectively, is having a

1 positive clinical effect on participating sex offenders, and
2 is cost-effective for the state.

3 (3) In conducting its evaluation, the Department of
4 Mental Health shall consider the effects of treatment of
5 offenders while in prison and while subsequently on
6 parole.

7 (4) The Department of Mental Health shall advise the
8 Legislature as to whether the program should be
9 continued past its expiration date, expanded, or ended.

10 (i) For purposes of this section, a “specially trained
11 treatment provider” shall meet all of the following
12 requirements:

13 (1) He or she shall be a licensed clinical social worker
14 as defined in Article 4 (commencing with Section 4996)
15 of Chapter 14 of Division 2 of the Business and Professions
16 Code; a marriage, family, and child counselor as defined
17 in Chapter 13 (commencing with Section 4980) of
18 Division 2 of the Business and Professions Code; a clinical
19 psychologist, as defined in Section 1316.5 of the Health
20 and Safety Code; or a physician and surgeon engaged in
21 the practice of psychiatry.

22 (2) He or she shall have a minimum of 1,000 hours of
23 clinical experience in the area of assessment and
24 treatment of sex offenders and 40 hours of documented
25 continuing education hours in sex offender treatment.
26 Required training shall include the following: personality
27 theory and disorders; etiology of sexual deviance; sexual
28 arousal, assessment, and reconditioning; social
29 competency training, relapse prevention, and cognitive
30 restructuring therapy; culturally specific treatment
31 needs; treatment of special needs clients;
32 pharmacological therapy; victimology; state sexual abuse
33 statutes; and ethics and professional standards.
34 Coursework completed as part of graduate studies may
35 be credited towards meeting certification standards.
36 Certification as to completion of the coursework shall be
37 provided by the college or university at which the
38 coursework was undertaken.

(3) Two letters of reference from professionals who can attest to the applicant's experience in counseling sex offenders.

(j) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 6. The Department of Corrections and the Department of Mental Health shall report to the Legislature by September 1, 2000, regarding the staffing, personnel, and statutory authority, if any, needed to ensure that background reports on any offender who is referred by the Department of Corrections to the Department of Mental Health for commitment as a sexually violent predator pursuant to Article 4 (commencing with Section 6000) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, but who is not committed to any state mental hospital as a sexually violent predator, are prepared on a timely basis and made available to parole agents who must supervise the offender in the community.

SEC. 7. The sum of four million five hundred thousand dollars (\$4,500,000) from the General Fund is hereby appropriated to the Department of Corrections for the purpose of implementing this act during the 1999–2000 fiscal year, and shall be offset by the expenditure of up to two ~~million dollars (\$2,000,000)~~ *hundred thousand dollars (\$200,000)* in reimbursements.

SEC. 8. It is the intent of the Legislature that nine million dollars (\$9,000,000) in expenditure authority shall be provided for the programs established in this act in the 2000–01 fiscal year so that these programs can be fully implemented.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Thousands of adult sex offenders are being released each year to state parole supervision who are deemed to

1 pose a high risk of committing new sex crimes and other
2 violent acts. Very few of these offenders are receiving
3 adequate parole supervision, few receive any treatment
4 while in prison to curb their pattern of criminal activities,
5 and only a fraction receive intensive supervision,
6 treatment, and control after they are released into the
7 community. In order to address these significant public
8 safety concerns, it is essential that this act take effect
9 immediately.

